

The Job Creation and Worker Assistance Act of 2002, P.L. 107-147 allows an election to carry-back a net operating loss five years, rather than the general two years, on the federal income tax return. In response, Missouri Senate Bill 1248 amended Section 143.121(d) RSMo. Effective June 19, 2002, any amended Missouri income tax return reporting a change in federal taxable income attributable to a net operating loss carry back of greater than two years, must report the net operating loss amount as an addition to federal adjusted gross income. **(Effective August 28, 2003, farmers are no longer required to make this adjustment.)**

When a net operating loss is deducted on the federal individual income tax return it reduces federal adjusted gross income. That reduced federal adjusted gross income becomes the starting point for the Missouri individual income tax return. Thus, prior to Senate Bill 1248, the deduction for a net operating loss on the federal return reduced federal adjusted gross income, thereby reducing Missouri adjusted gross income.

Senate Bill 1248 provides that certain net operating loss amounts must be added back to federal adjusted gross income on the Missouri income tax return. A net operating loss for federal income tax purposes that is carried back one or two years or carried forward up to twenty years will continue to reduce Missouri adjusted gross income. However, a net operating loss for federal income tax purposes that is carried back more than two years, must be added back to federal adjusted gross income on the Missouri income tax return and will not reduce the Missouri adjusted gross income.

Example 1: In 2002, the taxpayer has a net operating loss of \$50,000, which he elects to carry back to the 1997 federal income tax return. In 1997, the taxpayer's federal adjusted gross income was \$75,000 and the carry back reduces the federal adjusted gross income to \$25,000. On the 1997 amended Missouri income tax return, the reduced federal adjusted gross income of \$25,000 is reported on line 1 of the Form MO-1040. The \$50,000 net operating loss is reported as an addition modification on line 2, part 2 of the Form MO-A and carried to line 2 of the Form MO-1040.

The carry back of the net operating loss qualifies as a change to the 1997 federal taxable income pursuant to Section 143.601, RSMo. As a result, when the loss is carried back to 1997 on the federal income tax return, an amended 1997 Missouri income tax return is required to be filed and the net operating loss amount must be reported as an addition modification for that year.

Example 2: In 2002, the taxpayer has a net operating loss of \$100,000, which he elects to carry back to the 1997 federal income tax return. Each year the taxpayer applies the net operating loss to reduce federal adjusted gross income to zero and carries the excess remaining forward to the succeeding year. In 2001 the total amount of net operating loss remaining, \$20,000, is applied to 2001 leaving no further amounts for carry forward.

On the 2002 Missouri income tax return, \$100,000, the amount carried back to 1997, must be reported on line 2, part 2 of the Form MO-A and carried to line 2 of the Form MO-1040. On the 1997, 1998 and 1999 amended Missouri income tax returns the amount reported for each year on line 2, part 2 of the Form MO-A and carried to line 2 of the Form MO-1040 is the entire net operating loss used each year to reduce the federal adjusted gross income on the federal income tax return.

On the 2000 amended Missouri return, the amount reported on line 2, part 2 of the Form MO-A and carried to line 2 of the Form MO-1040 is only the amount of net operating loss remaining to be carried forward to 2001, \$20,000.

On the 2001 amended Missouri income tax return there is no addition modification because the net operating loss is completely absorbed and there is no remaining carry forward.